



U.S. ELECTION ASSISTANCE COMMISSION
1225 NEW YORK AVENUE, N.W., SUITE 1100
WASHINGTON, D.C. 20005

OFFICE OF THE CHAIRMAN

October 16, 2006

The Honorable Bruce McPherson
Secretary of State
1500 11th Street
Sacramento, California 95814-2974

Dear Secretary McPherson,

The California Secretary of State's Office (SOS) filed an appeal of four items which the EAC determined must be repaid in the Final California Audit Resolution issued on May 12, 2006. The appeal was received on time and any necessary supporting documentation for the items listed for appeal has been requested and received. The following are the Commissioner decisions for each appeal item.

Appeal Issue 1: Consultant Services (\$27,570.75 appealed)

The SOS did not provide any new information concerning the excess attorneys' fees that the state must repay to the U.S. Treasury. The opinion provided by the California Attorney General only determined that the SOS was obliged to pay for the services provided in the contract, not whether the contract in dispute provided services that were allowable, reasonable, and allocable to HAVA programs. The Attorney General decision does not address whether proper procurement procedures were followed or whether purchase orders were incorrectly split. The "reconciliation" process described in the SOS appeal appears to be just an accounting scheme meant to circumvent the cap on hours in the contract in order to pay the firm for their work.

The Commission will not overturn the initial decision made by the Executive Director. California must repay the amount as specified in the EAC Final Audit Resolution.

Appeal Issue 2: Sonoma County Grant Purchases (\$63,657 appealed)

EAC previously determined that the envelope printers and high volume extraction processing systems purchased by Sonoma County required pre-approval by the EAC. Despite the fact that pre-approval was not sought or granted, the EAC has reviewed the expenditure and determined that the costs for this equipment are allowable under §101(b)(1)(B) as an improvement to the administration of Federal elections. The state has provided a certification by Sonoma County that states the costs of the equipment are fully allocable to HAVA programs and that the costs paid for the equipment were reasonable.

As such the Commissioners have decided to approve the Sonoma County equipment purchases specified in the appeal, based upon the new information provided by the SOS. Though not pre-approved, the purchase was allowable, allocable, and reasonable as required by Federal Cost Principles. The state shall not be required to repay the costs for this equipment.

Appeal Issue 3: Lassen County Grant Purchases (\$5167.42 appealed)

HAVA §101(b)(1)(C) and (D) provide for using HAVA funds for voter education and poll worker training, respectively. The scanner purchased by Lassen County is utilized in the process of preparing educational materials for voters and poll workers.

As such the Commissioners have decided to approve the Lassen County equipment purchases specified in the appeal, based upon the new information provided by the SOS. Though not pre-approved the purchase was allowable, allocable, and reasonable as required by Federal Cost Principles. The state shall not be required to repay the costs for this equipment.

Appeal Issue 4: Los Angeles County Grant Purchases (\$34,707.04 appealed)

HAVA §101(b)(1)(C) and (D) provide for using HAVA funds for voter education and poll worker training, respectively. The equipment purchased by Los Angeles County is utilized in the process of preparing educational materials for voters and poll workers.

As such the Commissioners have decided to approve the Los Angeles County equipment purchases specified in the appeal, based upon the new information provided by the SOS.

Though not pre-approved the purchase was allowable, allocable, and reasonable as required by Federal Cost Principles. The state shall not be required to repay the costs for this equipment.

Conclusion:

In the Final Audit Resolution, the EAC determined that the State of California had to repay a total of \$3,021,114.00. Based on the Commissioner's decision on appeal, the final repayment amount is \$2,917,583. This amount is broken down in the chart, below.

Cost Category	Total Repayment Amounts	Repayment Details	
		Election Fund	Federal Government
Consultant Services	\$958,700.00	\$915,394.00	\$43,306.00
Personal Services Contracts	\$1,025,690.00	\$937,269.00	\$88,421.00
Printing, Postage, and Shipping	\$308,462.00	\$74.00	\$308,388.00
County Grants	\$77.00		\$77.00
Administrative Indirect Costs	\$108,077.00	\$108,077.00	
Interagency Costs	\$25,616.00		\$25,616.00
Office Equipment	\$487.00		\$487.00
Travel	\$294.00	\$294.00	
Other	\$440.00	\$425.00	\$15.00
County Grants	\$69,812.00		\$69,812.00
Consultant Services	\$419,928.00	\$419,928.00	
Total	\$2,917,583.00	\$2,381,461.00	\$536,122.00

Of this total repayment amount, \$2,381,461.00 must be repaid to the state election fund and \$536,122.00 must be repaid to the U.S. Treasury. Repayment cannot be funded by the state's five percent match for requirements payments or the state's maintenance of effort funding.

The EAC requires a certification by the state budget office verifying repayment has been made to the state election fund, including any supporting documentation. EAC staff will follow up with the SOS staff to provide guidance on how to provide repayment to the U.S. Treasury. The time frame for appeals has ended and no further appeals will be accepted. This decision is final and binding.

If you have any questions regarding the repayment process, you may contact Edgardo Cortés at 202-566-3100.

Sincerely,

A handwritten signature in black ink that reads "Paul DeGregorio". The signature is written in a cursive style with a large, stylized "P" and "D".

Paul S. DeGregorio
Chairman